IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.683 OF 2006

Anusaya Bhagoji Gije .. Appellant.
Vs.
Krishna Rama Wagh & Ors. .. Respondents.

Mr.Pradeep M.Patil for the appellant.
Mr.M.H.Solkar for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 13TH FEBRUARY, 2007

P.C.:

. Heard learned counsel for the parties.

2. This appeal by defendant no.1 arises from the concurrent judgments of the courts below by which the suit filed by the respondent-plaintiff for injunction simplicitor stands decreed. Mr.Patil, learned counsel for the appellant submitted that both the courts below have committed grave error of law in treating the agreement of sale dated 2nd January, 1974 as sale deed and discarding the same being not registered. As a matter of fact, according to Mr.Patil, the document was agreement of sale and registration thereof was not necessary. I perused the judgments of both the courts below. The suit filed by the respondent-plaintiff was for injunction simplicitor and in view thereof the

courts were expected to examine as to who was in possession of the suit property as on date of filing of the suit. Keeping that in view even if it is assumed that the aforesaid document is agreement of sale that would not help the appellant to establish that he was in possession of the suit property on date of filing of the suit. Both the courts below after having taken into consideration the entire material on record and in particular that the plaintiff has become owner of the suit property by virtue of the provision of section 32-G of Bombay Tenancy & Agricultural Lands Act have recorded a categoric finding that the plaintiff was found in possession of the suit property. Considering that there are concurrent findings of the courts below holding that the plaintiff was in possession of the suit property and as I find sufficient material on record to sustain those findings and considering extremely limited jurisdiction of this court under section 100 of the Code of Civil Procedure to disturb the findings of fact this appeal deserves to be dismissed. Order accordingly. The dismissal of the appeal shall, however, not preclude the appellant from taking appropriate remedy based on the agreement for sale dated 2nd January, 1974.

(D.B.Bhosale, J.)